

# Before the FEDERAL COMMUNICATIONS COMMISSION Washington, D.C.

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Service Rules for the 746-764 and 776-764 MHz Bands, and Revisions to Part 27 of Commission's Rules	,	WT Docket No. 99-168	
Carriage of the Transmissions of Digital Television Broadcast Stations	1 )	CS Docket No. 98-120	
Review of the Commission's Rules and Policies Affecting the Conversion to Dig Television	) gital ) )	MM Docket No. 00-39	

### COMMENTS OF SINCLAIR BROADCAST GROUP, INC.

Sinclair Broadcast Group, Inc. ("Sinclair") hereby submits its comments in response to the Commission's Further Notice of Proposed Rulemaking ("FNPRM") in the above-captioned proceeding regarding the reallocation and auction of 30 MHz of spectrum within the 700 MHz band. While Sinclair generally supports the Commission's proposed reliance on voluntary agreements between broadcasters and new 700 MHz licensees for the clearing of the Channel 59-69 spectrum, it is critical that the Commission take certain steps to ensure that affected broadcasters can continue to provide high-quality service to viewers in their communities. Specifically, to protect broadcasters relocating from Channels 59-69, the Commission should permit those broadcasters to operate on replacement analog channels in the core spectrum for the

In the Matter of Service Rules for 746-764 and 776-794 MHz Bands, and Revisions to Par 27 of the Commission's Rules, Memorandum Opinion and Order and Further Notice Footnote continued on next page

duration of the transition, and should also resolve the ongoing DTV reception problems by allowing use of an alternative transmission standard. As a further safeguard for relocated, DTV-only broadcasters, the Commission should apply its DTV must carry requirement to all material transmitted over a broadcaster's 6 MHz block of digital spectrum.

## Background

Sinclair. Sinclair is a publicly traded company with thousands of shareholders and a multi-billion dollar market capitalization. It is among the nation's largest group television entities, owning, applying for, or programming sixty-two commercial television stations.

Sinclair is committed to the rapid introduction of DTV technology, and hopes to provide viewers with a quality of service that exceeds that offered in today's analog world. While Sinclair continues to urge the Commission to permit broadcasters to operate using COFDM technology, Sinclair has already invested millions of dollars to upgrade its facilities and expects to spend a total of \$300 million during this conversion.

Several of the stations owned and operated by Sinclair currently broadcast on Channels 59-69, specifically KSMO-TV, Channel 62, Kansas City, Missouri; WSTR-TV, Channel 64, Cincinnati, Ohio; WSMH(TV), Channel 66, Flint, Michigan; and WSYT(TV), Channel 68, Syracuse, New York. Accordingly, Sinclair has an interest in any Commission action regarding the clearing of incumbent broadcasters from this portion of the spectrum.

The FNPRM. Congress has directed the Commission to establish procedures for the reallocation and auctioning of broadcast Channels 59-69, and, in this process, a primary Commission goal is to ensure the rapid provision of new services to the American public. At the

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of Proposed Rule Making, WT Docket No. 99-168, CS Docket No. 98-120, MM Docket Footnote continued on next page

same time, television broadcasters are obligated to provide their communities with local news, information, and entertainment programming, and the Commission must carry out this process in a manner that enables broadcasters to fulfill these obligations. To this end, the Commission in its FNPRM affirms the role of voluntary agreements between incumbent broadcasters and new 700 MHz licensees in the clearing of this spectrum, and addresses a number of different types of arrangements between such parties. The Commission requests comment on these proposals and asks for comment on other related policies that would accelerate the DTV transition.<sup>2</sup>

#### Discussion

# I. Analog replacement channels and the need for an optional DTV transmission standard

The Commission's band clearing proposals rely significantly on relocated broadcasters' provision of digital-only service for the duration of the DTV transition. This approach will likely be ineffective. The DTV transition is lagging terribly. Fewer than 50,000 DTV receivers (approximately one-twentieth of one percent of all U.S. TV households) capable of receiving DTV have been sold in the U.S. to date.<sup>3</sup> At the current rate, the DTV transition will not be complete for another fifteen or twenty years, well after the Commission's target date of 2006. As a result, relocated broadcasters shifting exclusively to DTV operations would lose the majority of their audience and suffer substantial economic harm. Of course, the vast majority of broadcasters in the Channel 59-69 spectrum will seek to avoid such harm by continuing to

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No. 00-39, released June 30, 2000.

FNPRM at ¶¶ 80-105.

Most of these DTV receivers have been sold to distributors, retailers, and broadcasters, rather than to consumers.

operate on their existing channels, and the Commission's goals in this proceeding will be frustrated.

Thus, in order to fulfill its goals, the Commission must make a critical change to its proposed band-clearing policies. Specifically, the Commission must adopt rules that enable broadcasters relocating from Channels 59-69 to operate on replacement analog channels in the core spectrum until the end of the DTV transition. Use of an analog channel will enable these broadcasters to maintain far greater penetration levels during the transition, avert enormous service losses, and more widely distribute the public service benefits of their programming.

In addition, given the Commission's proposal that relocating broadcasters rely exclusively on DTV operations for the duration of the transition, there is a heightened urgency for decisive agency action on the ongoing DTV reception problems. As Sinclair has described in previous filings with the Commission, broadcasters at the moment are unable to provide ease of reception and reliable, over-the-air DTV service to a substantial proportion of viewers in their core market areas. Due to the inability of the current U.S. DTV transmission standard, ATSC 8-VSB, to overcome "multipath" effects, viewers relying on simple, small antennas are generally unable to obtain reliable DTV reception. Sinclair has already urged the Commission to solve this problem and revive the DTV transition by giving broadcasters the option to operate using a second DTV transmission standard, DVB-T, that has been quality-proven and widely adopted around the world. If the Commission adopts its current proposals in the 700 MHz proceeding,

<sup>&</sup>quot;Multipath" conditions are present where there are structures and objects located between stations' DTV transmitters and viewers' antennas.

See, Sinclair Broadcast Group, Inc., Petition for Expedited Rulemaking, filed October 8, 1999; Comments, Sinclair Broadcast Group, Inc., MM Docket No. 00-39, filed May 17, 2000; Reply Comments, Sinclair Broadcast Group, Inc., MM Docket No. 00-39, filed June 16, 2000.

however, the need for this optional standard will become even more pressing. If broadcasters cannot be assured of providing a viable, high-quality DTV service to their communities, they will avoid an early shift to DTV-only operations, and the Commission's efforts to rapidly and efficiently clear the 700 MHz band will be unsuccessful.

## II. DTV Must Carry Requirement

The Commission states in the FNPRM that, "cable systems are ultimately obligated to accord 'must carry' rights to local broadcasters' digital signals. Existing analog stations that return their analog spectrum allocation and convert to digital are entitled to mandatory carriage for their digital signals consistent with applicable statutory and regulatory provisions." If the Commission adopts the relocation proposals contained in its FNPRM, this must carry requirement will provide crucial protection to broadcasters that voluntarily relocate to the core broadcast spectrum and shift to DTV-only operations. As Sinclair has previously argued, this DTV must carry requirement should apply to all material transmitted over a broadcaster's 6 MHz block of digital spectrum; a broadcaster's "primary video" in the DTV context should consist of its entire 6 MHz transmission. Accordingly, if a DTV broadcaster chooses to multiplex its 6 MHz channel and transmit multiple programming streams, cable operators should be required to carry all of these programming streams. If the Commission fails to adopt such a comprehensive DTV must carry requirement, broadcasters will be far less likely to vacate their analog channels and shift to DTV-only operations during the transition.

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FNPRM at  $\P$  65.

## III. Band Clearing Through Voluntary Agreements

As a general principle, Sinclair favors the Commission's proposed reliance on **voluntary** agreements between incumbent broadcasters and new 700 MHz licensees as a means for facilitating the clearing of the Channel 59-69 spectrum. By allowing these private parties themselves to set the terms of broadcasters' relocation, the Commission will maximize the efficiency of the 700 MHz band clearing process. In addition, this voluntary framework means that no broadcaster will be compelled to rely exclusively on the flawed ATSC 8-VSB standard prior to the end of the DTV transition.

In reviewing these voluntary agreements between incumbent broadcasters and new 700 MHz licensees and associated requests for regulatory approval, the Commission must act expeditiously and flexibly. If there are undue processing delays, broadcasters entering into voluntary band clearing agreements will be unable to enjoy the benefit of those arrangements, and the Commission's purpose in this proceeding will be frustrated.

### Conclusion

In order to facilitate the reallocation of Channels 59-69, the Commission should either resolve the reception problems surrounding the current digital modulation standard, or at least provide broadcasters relocating from Channels 59-69 with a replacement analog channel from which to broadcast until the close of the DTV transition. With such protection, broadcasters will

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See, Sinclair Broadcast Group, Inc., Comments, CS Docket No. 98-120, filed October 13, 1998.

be much more willing to forsake their analog facilities in the Channel 59-69 spectrum and shift to the core broadcast spectrum.

Respectfully submitted,

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